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Moral Questions on Condoms and Disease Prevention

Germain Grisez

In this article, I deal with six questions. (1) Is all sexual activity involving a condom contraceptive? (2) Can one engage in marital intercourse while using a condom to reduce the risk of transmitting disease? (3) May the married use condoms to reduce the risk of transmitting HIV? (4) May the unmarried use condoms to prevent transmitting disease? (5) May anyone advise using condoms to reduce the risk of transmitting disease? (6) May a Catholic pastor or Catholic entity teach that some people may use condoms to reduce the risk of transmitting disease?

1

Is All Sexual Activity Involving a Condom Contraceptive?

Pope Paul VI implicitly defines contraception in *Humanae vitae*, n. 14, where he reaffirms the Church's constant and very firm condemnation of its use within marriage:

Item quivis respuendus est actus, qui, cum coniugale commercium vel praevidetur vel efficitur vel ad suos naturales exitus ducit, id tamquam finem obtinendum aut viam adhibendam intendat, ut procreatio impediatur. [Similarly excluded is any action—either before, during, or after marital intercourse—that is intended, as an end or as a means, to impede procreation.]

Thus, using a condom is contraceptive if, and only if, the condom is used with the intention of impeding procreation.

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But one cannot intend to do what one thinks to be impossible, and one cannot intend to impede what one assumes will not happen. So, if people engaging in sexual activity think that their activity cannot result in conception, they cannot intend to impede procreation. Therefore, if two or more persons use condoms while engaging in sexual activities and everyone involved believes that those activities could not result in conception, those people cannot be contracepting.

It follows that using condoms is not contraception if it is the act of heterosexuals who think they are sterile or of people who know that the sexual activities (e.g., anal or oral “intercourse”) in which they engage cannot result in conception. But such people might use condoms to reduce the risk of transmitting disease. So, that use of condoms would not be contraception.

It also follows that using a condom is not contraception if it is the act of a heterosexual couple who intend by its use to reduce the risk of transmitting a disease and use it because they wish to engage in sexual intercourse and, if they did, would not intend to impede procreation. But instead of engaging in sexual intercourse, they engage in sexual activity that results in at least one partner’s orgasm.

However, using a condom is contraception if it is the act of a heterosexual couple who intend by its use both to impede procreation and to reduce the risk of transmitting a disease.

2

Can One Engage in Marital Intercourse while Using a Condom to Reduce the Risk of Transmitting Disease?

A sexual act cannot be marital intercourse unless several conditions are met. Among them are (1) it must involve a married couple, (2) both parties must be willing (at least habitually) to engage in that act, and (3) it must result in ejaculation by the husband. But not all sexual activity that meets those three conditions is marital intercourse. For an act to be marital intercourse, there is at least one other condition: (4) it must be sexual intercourse.

An attempt at marital intercourse that ends with the husband’s unintentional ejaculation prior to penetration is not intercourse, and therefore is not marital intercourse. (If such an act were a married couple’s first sexual act, it would not consummate their marriage.) Likewise, sexual activity of a married couple intended by either or both spouses to bring about the husband’s orgasm apart from intercourse is not sexual intercourse, and therefore not marital intercourse. (In fact, such activity, often engaged in by couples after the husband has become completely impotent, is masturbation.)

Sexual intercourse is behavior pertaining to the reproductive function of animals of many kinds, and one male and one female of the same species must engage together in this behavior. The male’s penis enters the female’s vagina and is stimulated by movement and contact until the male’s ejaculation occurs. After that, the pair separate, and their act of sexual intercourse has ended. Thus, intercourse is their joint bodily performance that naturally and for the most part is an essential element of the process of reproduction. (Reproduction can be brought about without sexual intercourse in a laboratory and sometimes occurs without sexual intercourse even in nature when the male’s semen is ejaculated without penetration but near the vaginal opening.)

Both in humans and in other animals, sexual intercourse is only a small part of the reproductive process, most of which occurs independently of this behavior. Thus, intercourse may or may not result in reproduction. Anatomical and/or physiological conditions render some pairs of animals permanently or periodically infertile. Still, some infertile pairs engage in the behavior that constitutes intercourse: they do exactly what they would if they were fertile. In such cases, even if the female lacks a uterus or the male's ejaculation is entirely retrograde (so that all the semen ends in his bladder rather than in the female's vagina), the pair still engage in sexual intercourse.

From the preceding, it is clear that a married couple cannot intend to engage in marital intercourse without intending to engage in sexual intercourse, and that they cannot intend to engage in sexual intercourse unless they intend to carry out the behavior, described above, that pertains to the reproductive process.

Couples who resolve to use condoms to lessen the risk of transmitting disease seldom carry out their resolution consistently. One factor that accounts for such risk taking is that sexually aroused couples naturally desire sexual intercourse, and condom use frustrates that desire. Intentionally using a condom while engaging in sexual activity in order to prevent the contact of tissues and mingling of fluids is incompatible with intending the behavior, described above, pertaining to the reproductive process. For when a condom containing a penis is inserted into the vagina or a penis is inserted into a condom contained within a vagina, the penis is not in the vagina but in the condom, which is being used to prevent the contact of tissues and mingling of fluids. Even if semen is ejaculated into the condom and the couple is fertile, such sexual activity cannot result in reproduction—except *per accidens*, e.g., if the condom breaks or leaks. So, such sexual activity cannot pertain to the reproductive process. Hence, anyone engaging in such behavior cannot be engaging in sexual intercourse. Therefore, while a couple engaging in such behavior may *wish* to engage in sexual intercourse, they cannot do so, and so cannot *intend* to do so, unless and except insofar as they are confused about what they are doing.

It follows that a married couple using a condom to reduce the risk of transmitting HIV from either spouse to the other cannot engage in marital intercourse, and cannot intend to do so, except insofar as they are confused. The condom does not render a conjugal act non-unitive. The behavior that includes using a condom to reduce the likelihood of the contact between the partners' tissues and of the mingling of semen and mucous is incompatible with the behavior that pertains to the reproductive process. Using a condom therefore prevents sexual activity from being sexual intercourse—even if the behavior closely simulates sexual intercourse and is mistakenly thought by the couple to be marital intercourse.

3

May the Married Use Condoms to Reduce the Risk of Transmitting HIV?

As I have just explained, it is impossible to engage in marital intercourse while using a condom to reduce the risk of transmitting a disease. Married couples engaging in sexual activities with the intention that neither party will experience an orgasm need not—and if prudent will not—do anything that could transmit HIV.

So, married couples using a condom to reduce the risk of transmitting HIV intend that at least one party experience orgasm apart from marital intercourse. It is always grave matter for a married couple to engage in sexual activity with the intention that either party experience orgasm apart from marital intercourse, although the wife's orgasm may be induced before or after marital intercourse itself. Therefore, married couples may not use a condom to reduce the risk of transmitting HIV.

What should they do? They may abstain entirely from sexually stimulating behavior. Or, while taking care to avoid doing anything likely to transmit HIV, they may engage in some affectionate, even if sexually stimulating, behavior but stop short of excitation that will bring about either party's orgasm. And, in my opinion, married couples in some circumstances may rightly mutually agree to engage in marital intercourse while accepting the risk of transmitting HIV.

4

May The Unmarried Use Condoms to Prevent Transmitting Disease?

Nobody can use condoms to *prevent* entirely the transmission of disease. Used as contraceptives, condoms have a failure rate. They also have a failure rate—although perhaps very low—in attempting to prevent the transmission of disease. If used regularly over a long stretch, the likelihood of eventually transmitting disease will be far greater than it is on each occasion.

Unmarried people do not need to use condoms to reduce the risk of transmitting disease unless they are engaging in wrongful sexual behavior. Doing anything to facilitate wrongful behavior is wrong. So, it is wrong for unmarried couples to use condoms to facilitate wrongful sexual behavior by lessening the risk of transmitting disease. What should they do? Abstain from the wrongful sexual behavior.

Suppose that an unmarried couple have chosen to engage in sexual behavior that might transmit a disease. Suppose also that they think the risk of transmitting the disease would be reduced if they modified the behavior by using a condom. Suppose, finally, that they therefore choose to use a condom. Is that additional choice wrong?

If the behavior in which the couple already chose to engage was not sexual intercourse, it seems to me that their additional choice to use a condom is not wrong. If the behavior they chose was sexual intercourse, it seems to me that their choice to use a condom is a change of mind about what they will do, and amounts to a choice to limit their activity to mutual masturbation to lessen the likelihood of transmitting disease. In my judgment, that choice also would be wrong, but not worse than their original choice.

5

May Anyone Advise Using Condoms to Reduce the Risk of Transmitting Disease?

Suppose a public health worker is dealing with a prostitute or another individual who habitually engages in promiscuous behavior likely to transmit disease, and suppose that the behavior is lawful in that jurisdiction. May the public health

worker recommend that the individual use a condom to reduce the risk of transmitting disease?

There is a plausible argument for saying yes. The public health worker's intent could be to lessen the spread of disease. The choice to use a condom by individuals who have already chosen to engage in wrongful behavior might not be wrong; but even if wrong, might not be worse than the choice it replaces. And, if wrong, the public health worker recommending the use of a condom need not intend the wrongful behavior it facilitates.

But there also is a plausible argument for saying no. The public health worker's advice, if followed, facilitates ongoing, risky behavior. Eventually, following the advice is likely to lead to disaster for individuals who continue engaging in that behavior. The likelihood of disaster increases with individuals who regularly engage in risky behavior, not only because of the accumulating risk but because they probably will not always have a condom at hand and will accept additional risk by proceeding without it. Therefore, it might well be the public health worker's duty to discourage risk taking as much as possible. Instead of advising those who habitually engage in wrongful sexual behavior, "Use a condom," the worker might more soundly advise, "Limit your sexual activities to those that won't transmit disease."

6

May a Catholic Pastor or Catholic Entity Teach That Some People May Use Condoms to Reduce the Risk of Transmitting Disease?

Someone might ask whether a pastor would be engaging in wrongful cooperation if he taught that some sorts of people may or ought to use condoms. That way of framing the issue seems to me fundamentally mistaken. Cooperation problems do not arise for those who are acting on their own initiative, but for people involved in activities in which others take the initiative. Pastors properly fulfilling their responsibilities are always free to avoid cooperating except with Jesus and one another. In cooperating with Jesus, they never have a problem. In cooperating with one another, they may never cooperate with evil. If convinced another pastor has gone wrong, they must be faithful to Jesus and should make clear what they believe to be the other pastor's error.

In teaching on moral issues explicitly or implicitly dealt with in divine revelation, all pastors should bear witness to the truth revealed and speak *in persona Christi*. If a moral question arises and a pastor is uncertain whether the answer pertains to revelation or is certain that it does not, he has no competence to answer it. In such cases, I believe, no pastor rightly expresses any firm opinion, inasmuch as his doing so may well mislead the faithful. Nor, I think, should he express his personal opinions tentatively, for doing so will not provide people with guidance they can rely on and will distract attention from the truths a pastor ought to teach.

In my opinion, even if some Catholic pastor mistakenly thought it possible for couples to engage in marital intercourse while using condoms to reduce the risk of transmitting disease, he could not, unless ill-informed or confused, be confident that his opinion pertained to revelation or even that it was consistent with revealed truth. For there is no received teaching on this matter, and theological opinion con-

cerning it among theologians otherwise faithful to Church teaching, while divided, is mainly negative.

Moreover, I do not think that any Catholic pastor who has been well formed and who considers the matter with due care can be morally certain that anyone, even a public health worker, may rightly recommend the use of condoms to lessen the risk of transmitting disease. But even if public health officials or others could rightly recommend the use of condoms to reduce the likelihood of transmitting disease, I do not think any Catholic pastor can rightly say that.

Even if it were clear that unmarried people who have made up their minds to engage in sexual activities ought to use condoms to reduce the risk of transmitting disease, no Catholic pastor could rightly say that. To assume that some people may be unable to live chastely—to say, “If you cannot be good, be careful”—is to deny the truth of faith that God’s grace is sufficient. And to assume that someone who seems determined to continue sinning will not repent—to say, “Since you will not be good, be careful”—is to set aside the office of a pastor. For the primary responsibility of the pastor is to preach the Gospel: to remind sinners that God is merciful and call them to repentance.

Catholic entities either are agencies by which pastors carry out their pastoral responsibilities or organizations engaging in some form of apostolate approved by pastors. An agency of a bishop or group of bishops—for example, the relief agency of a diocese or bishops’ conference—plainly can rightly do only what pastors themselves can rightly do.

Some organizations engaging in apostolates approved by pastors rightly engage in activities that would be inappropriate for pastors—for example, operate a for-profit business as most Catholic publishers do, or provide professional health care, as Catholic hospitals do. However, inasmuch as they represent the Church, Catholic entities cannot rightly do anything likely to impede the reception and fruitfulness of the preaching of the Gospel. Promoting condom use is likely to impede the reception and fruitfulness of the Gospel’s teaching about chastity and fidelity. Therefore, no Catholic entity can rightly promote condom use.